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09/671,643	09/28/2000	Rajasekhar Abburi	MSFT-0179/150657.1	7451

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EXAMINER

GREENE, DANIEL L

ART UNIT            PAPER NUMBER

3621

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/671,643	<b>Applicant(s)</b> ABBURI, RAJASEKHAR	
	<b>Examiner</b> Daniel L. Greene	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 09 December 2003.
- 2a)  This action is FINAL.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 82-97 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 82-97 is/are rejected.
- 7)  Claim(s) 82 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* See the attached detailed Office action for a list of the certified copies not received.
- 13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a)  The translation of the foreign language provisional application has been received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 66-81 have been considered but are moot in view of the new ground(s) of rejection.

2.

### *Claim Objections*

3. Claim 82 is objected to because of the following informalities: It appears that there is no license issued to the first customer. Appropriate correction is required.

4.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

5. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 96 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of "wherein the second customer is the first customer" does not appear to be logical in reference to the limitations of Claim 82.

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Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “[second customer]” in claim [96] is used by the claim to mean “[first customer]”, while the accepted meaning is “[first customer].” The term is indefinite because the specification does not clearly redefine the term.

6. Claims 82-97 are pending in the present application. Claims 1-81 have been canceled, and new claims 82-97 have been added. Claims 82-97 are similar to now - canceled claims 66-81.

7.

***Claim Rejections - 35 USC § 103***

8.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**10. Claims 82-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schull, U.S. Patent 6,266,654 (Schull), and further in view of Koppelman et al. U.S. Patent 6,662,164 [Koppelman].**

As per claims 82, 85 and 88:

Schull discloses:

the licensor receiving a first license request for a first license from a first customer in connection with the content, the first customer having received a copy of the content from the retailer, the first request including retailer information associated with the corresponding piece of digital content and identifying the retailer; Col. 7, lines 1-10.

the licensor receiving a payment from the first customer in connection with the first license request; Col. 7, lines 1-10.

the licensor retrieving the retailer information from the first license request and identifying the retailer therefrom; Col. 7, lines 30-60.

the licensor crediting the identified retailer for a portion of the payment received in connection with the first license request; Col. 7, lines 30-60.

the licensor receiving a second license request for a second license from a second customer in connection with the content, the second customer having received a copy of the content from the first customer, the second request including first customer information associated with the corresponding piece of digital content and

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identifying the first customer; the licensor receiving a payment from the second customer in connection with the second license request; Col. 7, lines 30-60.

the licensor retrieving the first customer information from the license request and identifying the first customer therefrom; Col. 7, lines 30-60.

Schull discloses the claimed invention except for the licensor crediting the first customer for a portion of the payment received in connection with the second license request. However, Schull does disclose offering purchasers a commission on sales derived from their own purchased copy of a given product. Col. 7, lines 30-35.

Koppelman teaches that it is known in the art to provide a commission for creating sales. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the offering to purchasers a commission on sales derived from their own purchased copy of a given product of Schull with the method and apparatus for determining a commission of Koppelman, in order to provide the ability to promote sales and determine Commissions and amounts payable to sales representatives.

As per claims 83, 86 and 89:

Schull discloses the claimed invention except for wherein crediting the first customer comprises recording the first customer information in a database for accounting purposes, the database including an entry for each first customer information, each entry including a count for counting the number of times a license has been issued for the specific first customer information combination, such

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recording comprising: finding the first customer information entry in the database corresponding to the first customer information of the second request, or creating such sub-entry if none is present; and incrementing the count in such entry. However, Schull does disclose offering purchasers a commission on sales derived from their own purchased copy of a given product. Col. 7, lines 30-35.

Koppelman teaches that it is known in the art to provide wherein crediting the first customer comprises recording the first customer information in a database for accounting purposes, the database including an entry for each first customer information, each entry including a count for counting the number of times a license has been issued for the specific first customer information combination, such recording comprising: finding the first customer information entry in the database corresponding to the first customer information of the second request, or creating such sub-entry if none is present; and incrementing the count in such entry. Fig. 6.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the offering to purchasers a commission on sales derived from their own purchased copy of a given product of Schull with the method and apparatus for determining a commission of Koppelman, in order to provide the ability to determine Commissions and amounts payable to sales representatives.

As per claims 84, 87 and 90:

Schull discloses the claimed invention except for the wherein crediting the identified first customer comprises crediting the first customer according to the count in the entry. However, Schull does disclose offering purchasers a commission on sales derived from their own purchased copy of a given product. Col. 7, lines 30-35. Koppelman teaches that it is known in the art to provide wherein crediting the identified first customer comprises crediting the first customer according to the count in the entry. Col. 7, lines 12-22.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the offering to purchasers a commission on sales derived from their own purchased copy of a given product of Schull with the method and apparatus for crediting the identified first customer comprises crediting the first customer according to the count in the entry of Koppelman, in order to provide the ability to promote sales and determine Commissions and amounts payable to sales representatives.

As per claims 91 and 93:

Schull further discloses:

wherein receiving the second license request comprises receiving the second license request as addressed to a site identified by a site identifier, the site identifier including the content distribution information attached thereto, and wherein retrieving



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the content distribution information comprises retrieving the content distribution information as attached to the site identifier. Col. 7, lines 1-20.

**11. Claim 92 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schull and Koppelman as applied to claims 82-91 above, and further in view of Krishnan et al. U.S. Patent 6,073,124 [Krishnan].**

Schull discloses the claimed invention except for the issuing the license to the second customer. Krishnan teaches that it is known in the art to issuing the license to the second customer. Fig. 4, Col. 9-10, lines 1-67.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vending system of Schull with the issuing the license to the second customer of Krishnan in order for the new customer to utilize the purchased software and to prevent pirating of the software.

**12. Claims 94 and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schull and Koppelman as applied to claims 82-91 above, and further in view of Powell, U.S. Patent 2001/0032189 A1 [Powell].**

13. Schull and Koppelman discloses the claimed invention except for the wherein the payment comprises a non-monetary payment. Powell teaches that it is known to have barter transactions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use non-monetary transactions as

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taught by Powell, since Powell states at Para. 0196, that not all transactions require the transfer of money from user to originator.

As per Claim 95:

Schull and Koppelman discloses the claimed invention except for wherein the payment is selected from a group consisting of earned credits, barter chits, a promise to perform a function, and combinations thereof. Powell teaches that it is known to have barter transactions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use earned credits, barter chits, a promise to perform a function and combinations thereof to conduct non monetary transactions as taught by Powell, since Powell states in Para. 0196, that not all transactions require the transfer of money from user to originator and, a user may propose to employ originator or to perform services in exchange for the right to use the originators FDI (license).

14.

As per claim 97:

Schull further discloses:

wherein the second customer is not the first customer. Col. 7, lines 30-60.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are

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applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

1/14/03

DLG



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